



Harold W. Clarke, Director
Senate Finance and Appropriations Meeting
May 17, 2022



House Bill 5148/Senate Bill 5034

This legislation goes into effect on July 1, 2022.

VADOC will continue to calculate sentences with the existing earning structure until new sentence calculations begin no earlier than July 1st.

VADOC's information system, known as VACORIS, continues to be updated to align with the needs of the agency. This database is used to calculate inmate sentencing and keeps track of their information from incarceration through re-entry.

The inmate's behavior as well as participation & completion of programs also factor into the earning level of each inmate's sentence credit.

This legislation will be retroactive beginning July 1, 2022. The entire sentence will be evaluated for each individual who meets the criteria of the new earning system.



House Bill 5148/Senate Bill 5034

- On March 12, 2020, former Governor, Ralph Northam, declared a state of emergency based on the COVID-19 pandemic.
- Pursuant to the Budget Amendment approved by the General Assembly during the 2020 Veto Session, the Inmate Early Release Plan was developed and implemented by the Department of Corrections (DOC), under the authority of the Director of Corrections, and in response to the Governor's state of emergency declaration related to the COVID-19 pandemic, a communicable disease and current public health threat to the residents of the Commonwealth of Virginia as defined in §44-146.16 of the Code of Virginia. As a result, 2185 inmates were released under this authority.
- House Bill (HB) 5148 and Senate Bill (SB) 5034 were enacted during the 2020 General Assembly Special Session.
- HB 5148 was presented with a Senate companion bill, Senate Bill (SB) 5034. SB 5034 also addressed terminally ill inmates and their eligibility for review by the Parole Board for conditional release.
- HB 5148 identifies which convictions only qualify for a maximum of **4.5 days per 30 days** earned sentence credit (the current earned sentence credit system). The legislation introduced a new four-level earned sentence credit system with a maximum of 15 days earned for every 30 days served.



Earned Sentence Credit Appropriations

The Department received one time funding in FY21 in the amount of \$1,000,000 for modification of the CORIS system to support the implementation of Earned Sentence Credit (ESC) Legislation. Modifications have been completed and the system is ready to go live on July 1, 2022.

The changes to CORIS were complex and began in January 2021. This was considered a major change and currently testing continues.

The Department received the below funding to cover the 105 authorized position level (APL) approved to implement and support ESC Legislation:

| | FY22 | FY23(pending) | FY24(pending) |
|-----------------------|-------------|---------------|---------------|
| Chapter 552 | \$4,486,555 | \$4,486,555 | \$4,486,555 |
| 22-24 Proposed Budget | | \$3,423,098 | \$3,639,228 |
| Total Appropriation | \$4,486,555 | \$7,909,653 | \$8,125,783 |



Earned Sentence Credit Positions

The appropriation for Earned Sentence Credit supports the following positions:

- Information Technology Specialists
- Time Computation Specialists
- Offender Management - Community Release, Sex Offender Screening and Intake Staff
- Reentry Staff
- Probation and Parole Officers



Additional SR Inmates Expected to be Released Between July – August 2022 due to Enhanced GT Rates

- 3,212 additional SR inmates expected to be released
 - In addition to 1,396 SR inmates already expected to be released during this timeframe
- Characteristics of these 3,212 SR inmates
 - 90% Male; 10% Female
 - 52% Black; 48% White; <1% Other
 - Average Age = 40.7 years old
 - 14% Under 30 years old
 - 21% 50 years old or older
 - 28% have some degree of mental health impairment (MH-1 through MH-4)
 - 1% have a diagnosis of serious mental illness (MH-2S, MH-3, MH-4)

*Based on April 6, 2022 testing of the impact of enhanced good time rates on the CORIS Sentencing module; these figures will change as additional sentence/offense information is received, entered, and verified



Additional SR Inmates Expected to be Released Between July – August 2022 due to Enhanced GT Rates

- Offense History
 - Current Most Serious Offense (MSO)
 - 36% Violent
 - 34% Property/Public Order
 - 30% Drug Sales/Possession
 - 62% Violent according to §17.1-805 (sentencing guidelines)
- 69% are serving their 1st or 2nd term of SR incarceration
- Recidivism Risk
 - 68% High/Medium Risk of General Recidivism
 - 54% High/Medium Risk of Violent Recidivism

*Based on April 6, 2022 testing of the impact of enhanced good time rates on the CORIS Sentencing module; these figures will change as additional sentence/offense information is received, entered, and verified

**Comparisons to releases due to existing GT rates provided slide 9.



How Do These Inmates Compare?

- Males are 90% of the enhanced releases but 93% of the current SR population
- Black inmates are 52% of the enhanced releases but 54% of the current SR population
- White inmates are 48% of the enhanced releases but 46% of the current SR population
- Enhanced releases are slightly older than regular release but slightly younger than the average current SR population
- 28% of expected releases have a mental health impairment compared to 30% of the current SR population

| | Current SR Population (as of 4/30/22) | Already Expected to be Released Between Jul-Aug 2022 | Additional Estimated Jul-Aug 2022 Releases |
|-------------------|--|--|---|
| Gender | 93% Male 7% Female | 87% Male 13% Female | 90% Male 10% Female |
| Race | 54% Black 46% White <1% Other | 45% Black 54% White 1% Other | 52% Black 48% White <1% Other |
| Average Age | 41.3 | 38.9 | 40.7 |
| % Under 30yo | 17% | 21% | 14% |
| % 50yo or Older | 25% | 18% | 21% |
| % w/MH Impairment | 30% | 28% | 28% |



How Do These Inmates Compare?



Although most violent offenses are excluded, some inmates have both violent offenses and nonviolent offenses. Inmates with both included and excluded offenses will earn enhanced credits for the included offenses.

Some of the enhanced releases will have violent most serious offenses that are excluded from the enhanced eligibility offenses.

- 36% of enhanced releases have a Violent MSO
- 62% of enhanced releases are Violent by §17.1-805
- 68% of enhanced releases score High (34%) or Medium (34%) risk of recidivism on the COMPAS Risk Needs Assessment
- 54% of enhanced releases score High (22%) or Medium (32%) risk of violent recidivism on the COMPAS Risk Needs Assessment

| | Current SR Population (as of 4/30/22) | Already Expected to be Released Between Jul-Aug 2022 | Additional Estimated Jul-Aug 2022 Releases |
|----------------------------|--|--|--|
| Most Serious Offense | 67% Violent 17% PPO 16% Drugs | 43% Violent 32% PPO 26% Drugs | 36% Violent 34% PPO 30% Drugs |
| Violent by §17.1-805 | 79% | 60% | 62% |
| Risk of Recidivism | 29% High 30% Medium 41% Low | 32% High 30% Medium 28% Low | 34% High 34% Medium 28% Low |
| Risk of Violent Recidivism | 21% High 29% Medium 49% Low | 19% High 30% Medium 41% Low | 22% High 32% Medium 43% Low |



Estimated Community Corrections Population as of September 1, 2022

Community Corrections Population estimated to increase 4.3%,
reaching 66,648 by 9/1/2022

| | Total |
|--|---------------|
| 4/30/22 Community Corrections Population | 63,902 |
| | <i>plus</i> |
| Normal Expected May-Aug 2022 Community Starters* | 7,099 |
| | <i>minus</i> |
| Normal Expected May-Aug 2022 Community Enders** | 7,526 |
| | <i>plus</i> |
| Additional Estimated Jul-Aug 2022 Community Starters^ | 3,173 |
| Estimated 9/1/22 Community Corrections Population | 66,648 |

*Based on monthly average of 1,775 supervisees who started community supervision between May 2021-April 2022

**Based on monthly average of 1,882 supervisees who ended community supervision between May 2021-April 2022

^Historically, 99% of SR inmates have a community supervision obligation to satisfy after release (3,173 = 99% of 3,212 additional estimated releases)



Long-Term Impact on SR Populations

There will be an immediate surge of releases once the enhanced good-time (GT in chart) rates go into effect

The number of releases in later years will be smaller because inmates with retroactive, enhanced release dates have already been released

| Expected Release Date | Using Existing GT Rates | | Using New GT Rates* | | Difference | |
|---------------------------------|-------------------------|-------|---------------------|-------|------------|---------|
| | Number | Col % | Number | Col % | Number | Percent |
| Before 7/1/2022 | 2,754 | 9.4% | 6,114 | 20.9% | 3,360 | 122.0% |
| FY2023 | 5,478 | 18.7% | 5,074 | 17.3% | -404 | -7.4% |
| FY2024 | 3,261 | 11.1% | 2,853 | 9.7% | -408 | -12.5% |
| FY2025 | 2,175 | 7.4% | 1,861 | 6.3% | -314 | -14.4% |
| FY2026 | 1,610 | 5.5% | 1,313 | 4.5% | -297 | -18.4% |
| FY2027 or Later | 10,133 | 34.6% | 9,056 | 30.9% | -1,077 | -10.6% |
| Serving 1+ Life Sentences | 2,060 | 7.0% | 2,060 | 7.0% | 0 | 0.0% |
| Release Date Not Yet Calculated | 1,848 | 6.3% | 988 | 3.4% | -860 | -46.5% |
| Total | 29,319 | | 29,319 | | | |

*Based on testing of updated CORIS Sentence Calculation Engine on February 25, 2022; this information was not included in the results from the April 5, 2022 testing

NOTE: Based on a snapshot of the SR Population on February 28, 2022 and does not include future inmates sentenced to SR incarceration.



Where Will These Additional Releases Go?

Historically, 99% of releases have a community supervision obligation to satisfy after being released from incarceration;

Meaning 3,173 of the 3,212 additional estimated releases should go onto VADOC Community Corrections supervision after release


- One-half of the additional expected releases already have an approved home plan
- 151 of these inmates have a problematic release plan
 - 104 listed as being homeless at time of release
 - 41 have a medical condition
 - 12 have a mental health condition



Coordination With Stakeholder Agencies

On March 21, 2022,
the Virginia Department of Corrections
contacted other state agencies that would
play a vital role in assisting with the urgent,
successful reentry of over 4,000 inmates,
beginning July 1st

VADOC recognizes the amount of
documentation and utilization of statewide
resources needed to implement the new
legislation.


COMMONWEALTH of VIRGINIA
Department of Corrections

HAROLD W. CLARKE
DIRECTOR

P. O. BOX 26963
RICHMOND, VIRGINIA 23261
(804) 674-3000

March 21, 2022

MEMORANDUM

To: Agency Heads Impacted by New Legislation

From: Harold W. Clarke
Director *[Signature]*

Subject: In Re: Enactment of Enhanced Earned Sentence Credit Legislation, July 1, 2022

As a result of legislation that was passed during the 2020 Special Session of the General Assembly, earned sentence credits that are received by inmates located at the Virginia Department of Corrections will increase on July 1, 2022. The increase in earned sentence credits for qualifying convictions will increase from a maximum of 4.5 days for every 30 days that is served to a maximum of 15 days for every 30 days served. The legislation was also retroactive in nature, meaning this is being applied to the entire sentence of inmates who qualify for the new earning structure. The specific code section that was affected by this legislation is § 53.1-202.3.

I bring this information to your attention because VADOC will experience a large number of releases between July 1st and August 30th of this year. At present, we anticipate approximately 4,500 inmates will be released during this 60-day period. Our agency will deploy additional resources to be responsive to this increase that is approximately four times the current rate of inmate releases. We value your partnership; therefore as we prepare to best assist these citizens who will return home from incarceration, we want your agency to be prepared as well.

Thank you for your continued partnership and should you have additional questions, please don't hesitate to contact me.

Cc: Karen Kimsey, Director, Department of Medical Assistance Services
Shannon Dion, Director, Department of Criminal Justice Services
Kathryn A. Hayfield, Commissioner, Department of Aging and Rehabilitative Services
Daniel M. Gade, Ph.D., Commissioner, Department of Veteran Services
Nelson Smith, Commissioner, Department of Behavioral Health and Developmental Services
Dr. Danny Avula, Commissioner, Department of Social Services
Linda B. Ford, Acting Commissioner, Department of Motor Vehicles
Carrie Roth, Commissioner, Virginia Employment Commission
Jo Anne Barnhart, Commissioner, United States Social Security Administration
Jacqueline Weisgarber, Public Affairs Specialist, U.S. Social Security Administration (Virginia)
Lizna Odhwani, Public Affairs Specialist, U.S. Social Security Administration (Virginia)
David Melton, Public Affairs Specialist, U.S. Social Security Administration (Virginia)
Matthew Baxter, Public Affairs Specialist, U.S. Social Security Administration (Virginia)

The VADOC's strong partnerships with
local, state, and federal agencies will
be essential in the implementation of
the legislation. The following agencies
will be particularly important and have
been active parties to the planning:

**Department of Medical Assistance
Services, Criminal Justice Services,
Aging and Rehabilitative Services,
Behavioral Health and Developmental
Services, Social Services, Department
of Motor Vehicles, Virginia
Employment Commission, and the
U.S. Social Security Administration.**



Coordination With Stakeholder Agencies

- The Department continues to assist inmates with getting enrolled in Medicaid
- 60% of inmates confined in a state correctional facility that are estimated to be released under the ESC-2 and who also have a calculated release date through the end of October already have ACTIVE Medicaid.
 - DOC has provided DMAS with a list of those individuals
- DOC participates in bi-monthly meetings with agency heads under the Secretary of Health and Human Resources



Long-Term Impact on SR Populations

- Virginia's violent crime rate increased 2.1% from 2019 to 2020*
- The enhanced good time rates affect inmates primarily with non-violent offenses; with these inmates being released sooner, the remaining SR inmate population will be proportionately more violent
- Inmates with primarily non-violent convictions tend to score higher on the COMPAS Risk of Recidivism scale, which could adversely impact Virginia's recidivism rates
- The number of SR inmates in local/regional jails should continue to decrease as long as VADOC has capacity to continue/increase intakes

*Data source: Uniform Crime Reports (UCR) Incident Based Reporting System Repository electronic data files from Virginia State Police; Population data (for rates) retrieved from the U.S. Census Bureau; data for 2021 is not yet available



Anticipated Challenges

- Recruitment challenges delayed hiring for some reentry positions related to Earned Sentence Credit implementation.
- Funding included in the introduced budget will enable the Department to hire additional probation and parole officers.
- The Department continues to provide reentry services as have been part of normal business practices for a number of years. To be responsive to this legislation and the increased number of releases we have implemented a more robust system of checks and balances and heightened our community collaboration efforts with other partnering agencies and stakeholders.

QUESTIONS?

Jermiah Fitz

Corrections Operations Administrator & Legislative Liaison

jermiah.fitz@vadoc.virginia.gov